

UNITED STATES TAX COURT
WASHINGTON, DC 20217

FREDERICK L. NIXON, SR. & KEONAE N.)	
NIXON,)	
)	
Petitioners,)	
)	
v.)	Docket No. 3057-19S.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

This case was calendared for trial at the Columbia, South Carolina trial session commencing March 9, 2020. On February 24, 2020, respondent filed a Motion to Dismiss for Lack of Jurisdiction as to Petitioner Frederick L. Nixon, Sr. on the ground that the Petition as to him was filed in violation of the automatic stay provisions of 11 U.S.C. section 362(a)(8). By Order dated February 26, 2020, the Court directed petitioners, on or before March 5, 2020, to show cause why respondent's Motion should not be granted and why this case should not be dismissed for lack of jurisdiction as to petitioner Frederick L. Nixon, Sr. To date, the Court has not received a response from petitioners.

On March 9, 2020, respondent submitted the parties' proposed stipulated decision executed by respondent and petitioner Keonae N. Nixon.

The Tax Court is a court of limited jurisdiction, and we may exercise our jurisdiction only to the extent authorized by Congress. Naftel v. Commissioner, 85 T.C. 527, 529 (1985). 11 U.S.C. section 362(a)(8) expressly bars the commencement of a proceeding before the Tax Court concerning a debtor who has filed a bankruptcy petition and whose bankruptcy case remains open; accordingly, we have held that the Tax Court lacks jurisdiction in such circumstances. See McClamma v. Commissioner, 76 T.C. 754 (1981) (granting the Commissioner's motion to dismiss for lack of jurisdiction as to the taxpayer-husband where the taxpayer-spouses filed a joint (Tax Court) petition after the taxpayer-husband filed a bankruptcy petition and his bankruptcy proceeding remained open; holding,

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however, that the joint (Tax Court) petition was properly and validly filed with respect to the taxpayer-wife, who was not involved in the bankruptcy proceeding).

The foregoing considered, it is

ORDERED that the Court's Order to Show Cause, dated February 26, 2020, is hereby made absolute. It is further

ORDERED that respondent's Motion to Dismiss for Lack of Jurisdiction as to petitioner Frederick L. Nixon, Sr., is granted in that so much of this case relating to petitioner Frederick L. Nixon is dismissed for lack of jurisdiction. It is further

ORDERED that the caption of this case is amended to read: "Keonae N. Nixon, Petitioner, v. Commissioner of Internal Revenue, Respondent".

Petitioner Frederick L. Nixon, Sr. is reminded of the applicability of section 6213(f)(1) of the Internal Revenue Code, which provides that the running of time for filing a Tax Court petition is suspended during the time the automatic stay prohibits the filing of a Tax Court petition and for 60 days thereafter. The automatic stay is lifted upon the earlier of (1) the date the bankruptcy case is closed, (2) the date the bankruptcy case is dismissed, or (3) the date a bankruptcy discharge is granted or denied. 11 U.S.C. sec. 362(c)(2).

(Signed) Joseph H. Gale
Judge

Dated: Washington, D.C.
March 24, 2020